

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NAVOPACHE ELECTRIC COOPERATIVE, INC.

and

Case 28–CA–160585

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL UNION NO. 387, AFL–CIO

NOTICE TO SHOW CAUSE

On February 6, 2017, Administrative Law Judge Dickie Montemayor issued a decision in this case addressing the complaint allegation that the Respondent violated Section 8(a)(1) by promulgating and maintaining an overly broad rule prohibiting employees from discussing terms and conditions of employment with the Respondent’s Board of Directors. The judge found the rule explicitly restricted Section 7 activity and was unlawful under the first prong of *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004) (*Lutheran Heritage*). As an alternative analysis, the judge also applied the “reasonably construe” prong of *Lutheran Heritage*. Recently, the Board overruled the *Lutheran Heritage* “reasonably construe” test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. 14-17 (2017).

Having duly considered the matter,

NOTICE IS GIVEN that cause be shown, in writing, filed with the Board in Washington, D.C., on or before October 25, 2018 (with affidavit of service on the parties to this proceeding), why this case should not be remanded to the administrative law judge for further

proceedings consistent with the Board's decision in *Boeing*, including reopening the record if necessary. Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., October 11, 2018.

By direction of the Board:

/s/ Roxanne L. Rothschild

Executive Secretary